

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J. PETITION NO. 485 OF 2002

Shri. Mahadeo Amrutrao More ... Petitioner

Vs.

M/s. Nestle (I) Ltd. ... Respondents

Mr. N.M. Ganguli for Petitioner.

Mr. S. Ramaswamy i/by Atul Tungare for Respondents.

CORAM : F.I. REBELLO,J.
DATED : AUGUST 06, 2004
P.C. :

1. The Petitioner workman challenges the order dated 1.10.2001 whereby the reference has been rejected. The stand of the respondent company was that there was no relationship of workman and employer between the petitioner and respondent company. This stand found favour with the learned Labour Court who on evidence held that petitioner herein was unable to discharge the burden of proving the relationship of workman and employer. Once such finding was recorded, the labour court was bound to answer the reference against the petitioner herein.

2. At the hearing of the petition, on behalf of the petitioner their learned counsel has sought to assail the award on various grounds. It is true

that there may be some deficiencies in the matter of considering the material which was available or considering the evidence before the Labour Court which was produced before the Conciliation Officer. Still the Petitioner had to show that he was in the employment of the Respondent. When the case of respondent company was that he was employee of one Valji Sales Corporation which in fact has settled his dues. The learned Labour Court considering the material available as also the material not available, proceeded to hold that there was no relationship of workman and employer. As pointed out earlier, even if there be some jurisdictional error on the part of the Labour Court, the petitioner was unable to discharge the burden of proving that he was workman within the meaning of Section 2(9) and employed with respondent company. The impugned order does not suffer from any error apparent on the face of record. No interference is called for.

3. In the result, petition dismissed. Rule discharged. No order as to costs.

(F.I. REBELLO,J.)